

# SENATE BILL REPORT

## SB 5478

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As Reported by Senate Committee On:  
Environment, Water & Energy, February 18, 2011

**Title:** An act relating to minimum renewable fuel content requirements.

**Brief Description:** Concerning minimum renewable fuel content requirements.

**Sponsors:** Senators Holmquist Newbry, Rockefeller, Hargrove and Chase; by request of Department of Agriculture.

**Brief History:**

**Committee Activity:** Environment, Water & Energy: 2/04/11, 2/18/11 [DPS, DNP].

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### SENATE COMMITTEE ON ENVIRONMENT, WATER & ENERGY

**Majority Report:** That Substitute Senate Bill No. 5478 be substituted therefor, and the substitute bill do pass.

Signed by Senators Rockefeller, Chair; Nelson, Vice Chair; Chase, Fraser, Holmquist Newbry and Ranker.

**Minority Report:** Do not pass.

Signed by Senators Honeyford, Ranking Minority Member; Delvin and Morton.

**Staff:** Sam Thompson (786-7413)

**Background:** The state Motor Fuel Quality Act, enacted in 1990, adopted motor fuel standards, authorized the Washington State Department of Agriculture (WSDA) to set state standards, and established a sampling, testing, and enforcement program administered by WSDA.

Washington's Renewable Fuel Standard (RFS), enacted in 2006 and appended to the Motor Fuel Quality Act, requires that at least 2 percent of diesel annually sold in Washington be biodiesel or renewable diesel. The requirement may increase to at least 5 percent if WSDA determines that both in-state feedstock and oil-seed crushing capacity can satisfy a 3 percent requirement. This has not occurred.

In addition, at least 2 percent of gasoline sold in Washington must be ethanol. The requirement may increase to up to 10 percent if the Department of Ecology determines that

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federal air quality standards would not be jeopardized and WSDA determines that sufficient feedstock is available in Washington to support production of higher ethanol blends. This has not occurred.

State agencies must generally use at least 20 percent biodiesel compared to the total volume of agency diesel purchases. This requirement has not been met; in September 2010, the Department of General Administration (GA) reported that biodiesel purchases by state agencies other than Washington State Ferries (WSF) from January to June 2010 constituted 8.7 percent of total diesel purchased.

For the 2009-2011 fiscal biennium, fuel purchased by WSF at Harbor Island in Seattle for diesel-powered vessels must be a minimum 5 percent biodiesel blend, as long as the price does not exceed standard diesel price by more than 5 percent per gallon. This price restriction has not applied, and WSF (the state government's largest consumer of diesel) continues to purchase a biodiesel blend at Harbor Island.

When biodiesel is blended with petroleum diesel, labels for blends indicate blend percentages. A blend containing 2 percent biodiesel is labeled B2.

**Summary of Bill (Recommended Substitute):** Findings and Intent. The Legislature finds that in 2006 Washington committed to ensure market access for alternative fuels, resulting in significant investments to develop in-state feedstock production, oilseed crushing capacity, and biodiesel production and distribution infrastructure. The Legislature intends to strengthen the RFS to ensure that Washington follows through on its commitments, encourages continued growth of feedstock markets from oilseeds and food by-products, creates manufacturing jobs, and makes further strides toward energy independence.

RFS: Change to Minimum B2 Requirement for Highway Use. Beginning October 1, 2011, all diesel sold or offered for sale in Washington for use in motor vehicles upon highways of the state must contain at least 2 percent biodiesel fuel or renewable diesel by volume.

Beginning 60 days after WSDA determines that in-state production of biodiesel from feedstock grown or produced in Washington is at least 15 million gallons over the preceding 12 months, all diesel sold or offered for sale in Washington for use in motor vehicles upon highways of the state must contain at least 5 percent biodiesel or renewable diesel by volume.

After July 1, 2020, WSDA will review RFS requirements and recommend to the Legislature whether they should be extended to other diesel.

The Department of Licensing's authority to adopt RFS enforcement and implementing rules is deleted. WSDA retains its authority to adopt RFS enforcement and implementing rules.

Recordkeeping Requirements. Washington biodiesel producers must document the quantity of biodiesel produced and the quantity produced from feedstock grown or produced in Washington, and provide the information to WSDA. Failure to maintain records or submit information to WSDA is a violation of the Motor Fuel Quality Act, with potential criminal misdemeanor and civil penalties.

WSDA will have access to biodiesel producer records at any reasonable time to carry out Motor Fuel Quality Act requirements. WSDA may adopt rules for enforcing and carrying out recordkeeping requirements.

Public Records Disclosure Exemption. Biodiesel production and sales information that can be identified to a particular business is exempt from public disclosure.

Penalties. WSDA may not assess a civil penalty for violation of RFS requirements until GA certifies that state agencies are meeting state RFS requirements. If state agency usage falls below minimum state RFS requirements, a violator is not subject to a civil penalty until GA certifies that state agencies are meeting state RFS requirements.

Ethanol RFS Repealed. The requirement that at least 2 percent of gasoline sold in Washington be ethanol is repealed.

Motor Fuel Standards. WSDA is given discretionary authority to adopt American Society for Testing and Materials (ASTM) standards and federal Environmental Protection Agency (EPA) standards for motor fuel. Language adopting ASTM and EPA standards for motor fuel, except biodiesel, is deleted. WSDA motor fuel standards may include National Institute of Standards and Technology standards.

WSDA is given discretionary authority to require fuel pumps offering ethanol or biodiesel blends to be identified by labels stating blend percentages. Language requiring labels is deleted.

Other. Provisions are consolidated. Redundant, conflicting, and obsolete provisions are deleted or repealed.

**EFFECT OF CHANGES MADE BY ENVIRONMENT, WATER & ENERGY COMMITTEE (Recommended Substitute):** Technical changes:

- clarify that WSDA's review, after July 1, 2020, of RFS requirements and recommendation to the Legislature as to whether they should be extended to other fuel applies to other diesel fuel, rather than all other fuel; and
- correct a cross-reference to a civil penalty provision.

**Appropriation:** None.

**Fiscal Note:** Available.

**Committee/Commission/Task Force Created:** No.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Staff Summary of Public Testimony on Original Bill:** PRO: This bill will encourage job creation in the biofuel industry and provide tools for compliance with RFS requirements. Enforcement of current RFS requirements has been ineffective, frustrating investors who relied upon current mandates. Cost differences between diesel containing biofuel and standard diesel are minimal; diesel containing biofuel may actually be less expensive. This

mandate promotes use of fuel with lower carbon and particulate emissions. Families on farms that grow biodiesel feedstock will benefit. This bill enables Washington to realize the goals of the original 2006 legislation.

CON: This bill creates a financial burden for the trucking industry. Diesel containing biofuel may be \$0.02 to \$0.07 more expensive than standard diesel. This burden should not be imposed in the current economic downturn. Clogging caused by biofuel is a concern. This mandate is not needed; instead, the state should meet its RFS obligations in state vehicles and vessels. This mandate is not cost effective in reducing carbon emissions.

**Persons Testifying:** PRO: Senator Holmquist Newbry, prime sponsor; Todd Ellis, Imperium Renewables; Cameron Hewes, General Biodiesel; Ramon Benevides, GenEx; Jessica Finn-Coven, Climate Solutions; Nick Economides, Chevron; Craig Kenworthy, Puget Sound Clean Air Agency; Scott Dilley, Washington Farm Bureau; Wes McCart, Stevens County Farm Bureau; Chris Mulick, Washington State University; Steve Starr, Inland Empire Oilseeds; Mark Fitz, Star OilCo; Rod Gleysteen, Pacifica; Clark Gilman, Harvesting Clean Energy; Peter Moulton, Department of Commerce; Mary Beth Lang, Tom Davis, WSDA.

CON: Larry Pursley, Washington Trucking Association; Bruce Holmstrom, Vancouver Oil Co.; Chris McCabe, Association of Washington Business; Todd Myers, Washington Policy Center; Greg Hanon, Western States Petroleum Association.